

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
MARITEL, INC.)	WT Docket No. 04-257
and)	RM-10743
MOBEX NETWORK SERVICES, LLC)	
)	
Petitions for Rule Making to Amend the)	
Commission's Rules to Provide Additional)	
Flexibility for AMTS and VHF Public)	
Coast Station Licensees)	

To: Chief, Wireless Telecommunications Bureau

COMMENTS

The Association of American Railroads ("AAR"), by its undersigned counsel, hereby files comments in response to the "Notice of Proposed Rulemaking," FCC 04-171, released July 30, 2004 (hereafter "NPRM"), published in the Federal Register on August 10, 2004.¹ AAR's comments are limited to the question posed at paragraph 14 of the NPRM concerning alignment of VHF Public Coast ("VPC") channels with Appendix 18 of the *Radio Regulations* of the International Telecommunications Union ("ITU").

I. Introduction and Summary

1. The Commission has proposed at paragraph 14 of the NPRM to "align our allocation of this spectrum with that of the ITU with respect to use of the spectrum for

¹ 69 Fed. Reg. 48448, August 10, 2004.

port operations and ship movement services, in the interest of promoting compatibility with international shipping and increased flexibility.” In this regard, the Commission notes that Appendix 18 of the ITU *Radio Regulations* allows certain VPC channels (including those under consideration in this proceeding) “to be used for port operations and ship movement services, and further allows operation in single channel as well as two-channel mode.” The Commission also notes that, in the past, “[w]e generally have sought to conform our allocations of maritime spectrum to the ITU *Radio Regulations* as closely as possible.”²

2. AAR does not object to the Commission’s proposed “alignment” of certain aspects of the U.S. VPC allocation to the ITU *Radio Regulations* as long as appropriate explanatory language, as more fully described below, is incorporated as part of the resulting FCC rules.

II. Discussion

3. AAR’s interest in this matter arises from the fact that the band 160.215-161.610 MHz is used extensively in the United States for railroad mobile communications in accordance with the Private Land Mobile Radio (“PLMR”) allocations set forth in Section 90.35 of the Commission’s rules.³ These frequencies have been used for railroad mobile communications in the U.S. since approximately the late

² NPRM at para. 14.

³ The vast majority of railroad mobile communications facilities operate in the band 160.215 - 161.610 MHz, on channels that have been earmarked in Section 90.35(c) of the Commission’s rules for exclusive frequency coordination by the AAR, which functions as the railroad industry’s certified frequency coordinating entity.

1940s and early 1950s,⁴ and there are significant railroad operations in and around port cities and coastal areas that are supported by these VHF land mobile frequencies.

4. The 59 channels designated in Appendix 18 of the ITU *Radio Regulations* for VHF maritime mobile use are two-frequency channels, one frequency being for ship station transmissions and the other for coast station transmission.⁵ Of these 59 channels, there are 18 whose coast station frequencies overlap the PLMR channels used by the railroads in the U.S. pursuant to Section 90.35(c) of the Commission's rules.⁶ Importantly, these 18 channels are not available for coast station licensing in the United States (*see* Section 80.371(c) of the Commission's rules).

5. AAR has no objection to the Commission's proposal at paragraph 14 of the NPRM as long as certain safeguards that were adopted at WRC-2000 are incorporated into the Commission's rules. The agenda for WRC-2000 included proposed modifications to Appendix 18 that would, *inter alia*, expand the number of international maritime VHF frequencies (including frequencies that are used in the U.S. for railroad communications) to be operated as simplex channels, (*i.e.*, single frequency channels).⁷

⁴ The same general VHF channel plan is followed by the railroad industry in Canada pursuant to frequency allocations established by Industry Canada.

⁵ A copy of Appendix 18 of the ITU Radio Regulations, as reported in the Final Acts of World Radiocommunication Conference, Istanbul 2000 ("WRC-2000") is attached hereto as Exhibit 1. The use of the letter "S" antecedent to the "18" in the attachment is consistent with labeling of all sections of the ITU Radio Regulations (including appendices thereto) during the several-year period when the regulations were undergoing a process of "simplification" by the ITU. For present purposes, "Appendix 18" and "Appendix S18" are synonymous.

⁶ The 18 ITU maritime mobile VHF channels in Appendix 18 that overlap the VHF frequencies used by railroads in the U.S. and Canada are Channel Nos. 01-05, 07, 18-20, 60-66, and 78-79.

⁷ WRC-2000 Agenda Item 1.18.

AAR was an active participant in the U.S. preparatory activities leading up to WRC-2000, and an AAR representative participated with the U.S. Delegation at the four-week Conference in Istanbul for the specific purpose of ensuring that various proposals for amending Appendix 18 of the ITU *Radio Regulations* would not result in disruption of railroad VHF mobile communications links in the U.S.⁸

6. A special footnote (footnote (m)) was adopted at WRC-2000 for the expanded list of channels in Appendix S18 for which single-frequency operation was permitted. That footnote makes it clear that any single-frequency use of the maritime mobile channels will be specifically subject to “special arrangement between interested and affected administrations.” (See excerpt from ITU Appendix S18, attached hereto as Exhibit 1). In other words, the modification adopted at WRC-2000 for expanded single-frequency use does not take effect automatically, but is expressly subject to subsequent special agreement between or among interested or affected nations. In this regard, the U.S. government made it clear on the floor of the Conference at WRC-2000 that it will *not* enter into any international agreements for single-frequency operation in this country on the portion of the Appendix 18 channels that are earmarked for railroad use in the United States. Indeed, one of the “major objectives”⁹ of the United States for WRC-2000

⁸ For example, if foreign ship stations were allowed to operate in simplex mode in U.S. territory on frequencies in Appendix S18 that are also designated for railroad use in the U.S., the result would be harmful interference to co-channel or adjacent-channel railroad communications operating near coasts or harbors in the vicinity of the interfering ships.

⁹ “United States Delegation Report – World Radiocommunication Conference 2000” transmitted to Secretary of State Colin Powell on July 1, 2001, (hereafter “U.S. Delegation Report”) at para. 2.2 (pages 8-9). For the convenience of the Commission’s

was to “[e]nsure that any changes to Appendix 18 do not result in interference on the channels used in the U.S. for railroad mobile communications networks.”¹⁰ In this regard, the U.S. Delegation, in its official report to the Secretary of State following the completion of WRC-2000, stated as follows regarding the agenda item concerning the maritime VHF frequencies in Appendix 18:

“The U.S. objective going into the Conference with respect to the Maritime VHF Channel Plan in Appendix S18 was twofold: (1) make minimal changes to Appendix S18 to allow interim flexibility to administrations in meeting increasing requirements for maritime VHF communications by permitting simplex use of certain duplex channels, while avoiding any “pre-selection” of any particular digital technology for future use of these channels; and (2) *ensure that any changes to Appendix S18 do not result in interference on the channels used in the U.S. for railroad mobile communications networks.*”¹¹

7. The Report goes on to state that both of these objectives were met and, specifically regarding the second objective, that:

“As to the second Maritime VHF objective, the railroads’ continued use of certain Appendix S18 channels in the U.S. (and Canada) is protected because the provision that allows maritime use in simplex mode does not take effect automatically. Simplex use of the duplex channels is permitted only on the condition that special bilateral or multilateral international agreements permit such use. In this regard, both the U.S. and Canada made it clear at the Conference that they will not permit maritime simplex use on the portion of the Appendix S18 duplex channels allocated for railroad use in the U.S. and Canada.”¹²

staff, a copy of the U.S. Delegation Report is being filed as a separate Exhibit with these Comments. *See* Exhibit 2.

¹⁰ *Id.* at para. 2.1.23 (page 10).

¹¹ *Id.* at para. 3.7.14.1.1 (page 42), emphasis added.

¹² *Id.* at para. 3.7.14.2.1 (page 42).

8. As noted above, AAR has no objection to the Commission's suggestion in this proceeding that it "align" its VPC spectrum allocation with that of the ITU with respect to (1) single-frequency operation and (2) use of the spectrum for "port operations and ship movement services." However, AAR strongly urges that, if the Commission undertakes such "alignment," a footnote be included after the table at Section 80.371(c) of the rules to incorporate the language of footnote (*m*) in ITU Appendix 18, as well as the relevant language from the above-quoted text of the U.S. Delegation Report expressing the intent of the U.S. government regarding simplex operations on channels used for railroad communications in the United States. Such a footnote should read as follows:

"These channels may be operated as single frequency channels in the U.S, subject to special arrangement between the U.S. and other interested or affected administrations. The FCC will not permit single frequency use in the United States on any frequency listed in Appendix 18 of the ITU *Radio Regulations* that also is identified as subject to railroad frequency coordination in Section 90.35(c) of the Commission's rules."

9. Including such language as part of the Commission's rules would be consistent with the position taken by the United States at WRC-2000 and would place the international maritime community on notice that, notwithstanding the Commission's "alignment" of its rules with certain aspects of ITU Appendix 18, the Commission will not allow maritime single-frequency operation in the U.S. on any Appendix 18 channels that also are used for railroad mobile communications networks pursuant to Section 90.35(c) of the Commission's rules.

III. Conclusion

10. In conclusion, AAR respectfully submits that, if the Commission is inclined to adopt the proposed “alignment” described at paragraph 14 of the NPRM, it should incorporate as part of the rules the explanatory language recommended herein.

Respectfully submitted,

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October 12, 2004

Exhibit 1: ITU *Rules and Regulations*, Appendix S18 (from “WRC-2000 Final Acts”)

Exhibit 2: “United States Delegation Report – WRC 2000,” July 1, 2001

APPENDIX S18

**Table of transmitting frequencies in the VHF
maritime mobile band**

(See Article S52)

MOD

NOTE – For assistance in understanding the Table, see notes *a)* to *o)* below.

MOD

Channel designator	Notes	Transmitting frequencies (MHz)		Inter-ship	Port operations and ship movement		Public correspondence
		Ship stations	Coast stations		Single frequency	Two frequency	
60		156.025	160.625			x	x
01		156.050	160.650			x	x
61	<i>m), o)</i>	156.075	160.675		x	x	x
02	<i>m), o)</i>	156.100	160.700		x	x	x
62	<i>m), o)</i>	156.125	160.725		x	x	x
03	<i>m), o)</i>	156.150	160.750		x	x	x
63	<i>m), o)</i>	156.175	160.775		x	x	x
04	<i>m), o)</i>	156.200	160.800		x	x	x
64	<i>m), o)</i>	156.225	160.825		x	x	x
05	<i>m), o)</i>	156.250	160.850		x	x	x
65	<i>m), o)</i>	156.275	160.875		x	x	x
06	<i>f)</i>	156.300		x			
66		156.325	160.925			x	x
07		156.350	160.950			x	x
67	<i>h)</i>	156.375	156.375	x	x		
08		156.400		x			
68		156.425	156.425		x		
09	<i>i)</i>	156.450	156.450	x	x		
69		156.475	156.475	x	x		
10	<i>h)</i>	156.500	156.500	x	x		
70	<i>j)</i>	156.525	156.525	Digital selective calling for distress, safety and calling			

SOURCE: Final Acts, WRC-2000, Istanbul, May 8 – June 2, 2000

(See <http://www.itu.int/ITU-R/publications/acts/index.asp>)

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Channel designator	Notes	Transmitting frequencies (MHz)		Inter-ship	Port operations and ship movement		Public correspondence
		Ship stations	Coast stations		Single frequency	Two frequency	
11		156.550	156.550		x		
71		156.575	156.575		x		
12		156.600	156.600		x		
72	<i>i)</i>	156.625		x			
13	<i>k)</i>	156.650	156.650	x	x		
73	<i>h), i)</i>	156.675	156.675	x	x		
14		156.700	156.700		x		
74		156.725	156.725		x		
15	<i>g)</i>	156.750	156.750	x	x		
75	<i>n)</i>	156.775			x		
16		156.800	156.800	DISTRESS, SAFETY AND CALLING			
76	<i>n)</i>	156.825			x		
17	<i>g)</i>	156.850	156.850	x	x		
77		156.875		x			
18	<i>m)</i>	156.900	161.500		x	x	x
78		156.925	161.525			x	x
19		156.950	161.550			x	x
79		156.975	161.575			x	x
20		157.000	161.600			x	x
80		157.025	161.625			x	x
21		157.050	161.650			x	x
81		157.075	161.675			x	x
22	<i>m)</i>	157.100	161.700		x	x	x
82	<i>m), o)</i>	157.125	161.725		x	x	x
23	<i>m), o)</i>	157.150	161.750		x	x	x
83	<i>m), o)</i>	157.175	161.775		x	x	x
24	<i>m), o)</i>	157.200	161.800		x	x	x
84	<i>m), o)</i>	157.225	161.825		x	x	x

APS18-3

Channel designator	Notes	Transmitting frequencies (MHz)		Inter-ship	Port operations and ship movement		Public correspondence
		Ship stations	Coast stations		Single frequency	Two frequency	
25	<i>m), o)</i>	157.250	161.850		x	x	x
85	<i>m), o)</i>	157.275	161.875		x	x	x
26	<i>m), o)</i>	157.300	161.900		x	x	x
86	<i>m), o)</i>	157.325	161.925		x	x	x
27		157.350	161.950			x	x
87		157.375			x		
28		157.400	162.000			x	x
88		157.425			x		
AIS 1	<i>l)</i>	161.975	161.975				
AIS 2	<i>l)</i>	162.025	162.025				

Notes referring to the Table

Specific notes

MOD

m) These channels may be operated as single frequency channels, subject to special arrangement between interested or affected administrations.

ADD

o) These channels may be used to provide bands for initial testing and the possible future introduction of new technologies, subject to special arrangement between interested or affected administrations. Stations using these channels or bands for the testing and the possible future introduction of new technologies shall not cause harmful interference to, and shall not claim protection from, other stations operating in accordance with Article **S5**.